

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

OFFICE OF MENTAL RETARDATION AND  
DEVELOPMENTAL DISABILITIES, on behalf  
of Nicole A. Neilson,

Plaintiff,

-against-

6:04-CV-0387  
(LEK/DEP)

JO ANNE B. BARNHART, Commissioner  
of Social Security Administration,

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on April 19, 2006, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(d) of the Northern District of New York. Report-Rec. (Dkt. No. 14). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff Office of Mental Retardation and Developmental Disabilities, which were filed on April 28, 2006. Objections (Dkt. No. 15).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge ... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

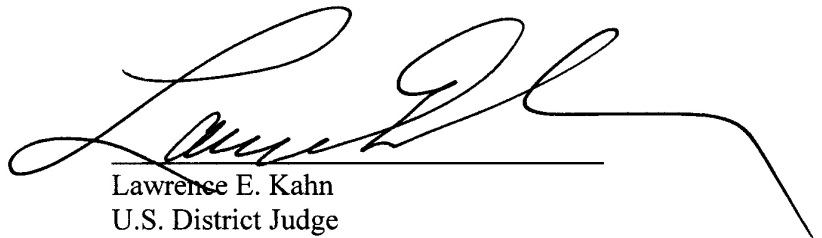
**ORDERED**, that the Report-Recommendation (Dkt. No. 14) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendant's motion for judgment on the pleadings is **GRANTED**, the Commissioner's determination **AFFIRMED**, and Plaintiff's complaint **DISMISSED** in all respects; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: September 28, 2006  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge